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10/781,828

02/20/2004

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EXAMINER

PHAM, VAN T

ART UNIT

PAPER NUMBER

2627

NOTIFICATION DATE

DELIVERY MODE

07/07/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

| | | | |
|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/781,828 | Applicant(s) PARK ET AL. | |
| | Examiner VAN T. PHAM | Art Unit 2627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18, 23, 28, 30-39 is/are pending in the application.
- 4a) Of the above claim(s) 30-39 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28 is/are allowed.
- 6) ☒ Claim(s) 18 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Claims 30-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5/8/2008 that, which are not persuasive where.

Applicant's election with traverse of Species "e" in the reply filed on 5/8/2008 is acknowledged. The traversal is on the ground(s) that species "d" (Figs. 5A, 2 and 8) and species "e" (Figs. 5b, 2 and 8) are related species. That is, Applicants submit that species "d" and species "e" both relate to Applicant's disclosed "embodiment 2." Therefore, Applicants submit it would not be an undue burden to examiner claims directed to both species "d" and "e". This is not found persuasive because species "d" and "e" are distinct species. There is an examination and search burden for those patentably distinct species due different search terms required in light of their mutually exclusive characteristics.

The requirement is still deemed proper and is therefore made FINAL.

Claim 28 is allowable. Claims 37-39 are dependent on claim 28; however, not all claims drawn to the species on which claims 37-39 read are allowable. Hence, claims 37-39 remain withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 18, 23 are rejected under 35 U.S.C. 102(e) as being anticipated by

Park et al. (US 6,788,631).

Regarding claim 18, Park et al. discloses a method for managing a recording medium having a data area spare area of a write the method comprising the steps of:

allocating a spare area in the recording medium and a user data area within the data area at an initial status of the recording medium (see Fig. 3); and

during use of the recording medium,

reducing the size of the spare area, and

expanding the size of the user data area in correspondence with a reduction in the size of the spare area (see Fig. 3, and col. 2).

Regarding claim 23, see rejection above of claim 18.

Claims 18 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by

Ueda et al. (US 7,123,556).

Regarding claim 18, Ueda et al. discloses a method for managing a recording medium having a data area spare area of a write the method comprising the steps of:

allocating a spare area in the recording medium and a user data area within the data area at an initial status of the recording medium (see Fig. 11); and

during use of the recording medium ,

reducing the size of the spare area, and

expanding the size of the user data area in correspondence with a reduction in the size of the spare area (see Figs. 6, 11, and col. 21, lines 6-8).

Regarding claim 23, see rejection above of claim 18.

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance:

Claim 28 is allowed.

None of the references cited in record disclose or suggest a controller configured to determine sizes of a spare area and a user data area, the spare area and the user data area allocated within the data area at an initial status of recording medium, determine whether the initial size of spare area is reduced, and whether the initial size of the user data area is expanded, during use of the recording medium, and generate a control command to record position information on the recording medium, the position information indicating a changed position of the user data area corresponding to a determined expansion of the size of the user data area.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takahashi US 6,373,800.
Park et al. Us 6,477,126.
Park et al. Us 6,788,631.
Ueda et al. US 7,123,556.
Takahashi US 5,914,928.
Hwang et al. US 7,313,066.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN T. PHAM whose telephone number is (571)272-7590. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne R. Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN T PHAM/
Examiner, Art Unit 2627

/Wayne Young/
Supervisory Patent Examiner, Art Unit 2627

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